



## WINDSOR POLICE DEPARTMENT

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"A Tradition of Excellence"



March 16, 2023

TESTIMONY: Chief Jennifer Frank, 04/21/2023

HB. 476 - An act relating to miscellaneous changes to law enforcement officer training laws

Good afternoon, Chief Jennifer Frank of the Windsor Police Department, speaking before you today on behalf of the Vermont Association of Chiefs of Police. Thank you for inviting VACOP to speak to HB. 476 - An act relating to miscellaneous changes to law enforcement officer training laws. It is also worth noting that like Ms. Tronsgard Scott, I also serve on the Criminal Justice Council and on the professional regulations sub-committee however my response today is specifically on behalf of VACOP. I have not been able to attend to previous testimony this afternoon on this bill, nor the updated version, as I had a previously scheduled engagement of which I have stepped away from in order to testify before you today.

Recently, the Senate Committee on Government Operations heard testimony encouraging the broadening of authority of the Vermont Criminal Justice Council in regards to decertification options for all category offenses, specifically targeting those acts which may be deemed to be gross professional misconduct.

This request for "unfettered authority" to grant the Council discretion to consider de-certification on egregious acts fails to take into account the lack of substantive definition of the term egregious.

The Council comprised of multiple rotating members from varying backgrounds are each correspondingly likely to have varying understandings and interpretations of the definition of the terms egregious and gross professional misconduct. What may be egregious for one, may not be considered such by another.

Given the nature of the severity of discipline being considered when including decertification as a sanction option, it is vital that officers and their employers have a clear and consistent understanding of what conduct is considered egregious and to have notice as to what conduct may result in termination and decertification. To do otherwise as was suggested before the legislature is inconsistent with the best practices in internal affairs investigations. Furthermore, this legislative change is predicated upon the assumption that the only manner for officer accountability is the Council via the PRSC, and not taking into consideration the internal progressive discipline process that exists internally within agencies based on their independent department and town policies.

VACOP would like to encourage the committee to hear from the many partners and stakeholders that would be involved before making such a drastic change to the current ACT 56 system.

To be clear, VACOP is not articulating or posturing that ACT 56 as it stands would not benefit from re-examination and potential changes to the current categorical assignment of offenses however, procedural justice alone would necessitate the elimination of vagueness in the proposal so that officers would have a reasonable expectation to know and understand how their behavior and conduct might be dealt with in a disciplinary process.

There is no intent in this testimony to indicate a wilfull misrepresentation of the position of the council occurred but rather to note that perhaps a misunderstanding of the concluding position between council members is apparent. The council's discussion on expanded authority as I understood it, was directed to discussion around the domestic violence updated provision and not a broad based sweeping change to allow for any and all conduct that may potentially be viewed as egregious. It was further introduced in an effort to consider alternative disciplinary options for B1 that would be aimed at reformation, societal reparation and restorative practice, not at decertification.

For example, if an officer engaged in inappropriate behavior that appears to have been related to excessive substance abuse, the current disciplinary sanctions did not allow for restorative sanctions such as counseling or treatment programs and was limited only to written warnings. This was the discussion amongst the PRSC that initiated the language discussion regarding the request for expanded authority. Expanded decertification sanctions was not the intent of the initial ask and it would be inappropriate to levy such a significant career ending sanction based on vague undefined terminology.

Respectfully,

A handwritten signature in black ink, appearing to read 'Jennifer Frank', with a small '1' and a checkmark-like symbol next to it.

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